IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 1ST JANUARY 2007 / 11TH PAUSHAM, 1928

WP(C).No. 27753 of 2005(D)

PETITIONER:

SANTHI, AGED 38 YEARS,
D/O. KRISHNAN, PAYYANNUR HOUSE,
KOLAPARAMBU, AYYANTHOLE, THRISSUR.

BY ADV. SRI.RAJIT
SRI.RANJIT BABU

RESPONDENTS:

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1. THE THRISSUR URBAN CO-OPERATIVE BANK LTD.NO.R.87, HEAD OFFICE, THRISSUR-1, REPRESENTED BY THE GENERAL MANAGER.

2. ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, THRISSUR.

3. KERALA CO-OPERATIVE TRIBUNAL, THIRUVANANTHAPURAM.

BY ADV. SRI.C.D.DILEEP FOR R1
GOVERNMENT PLEADER SRI.P.K. RAVIKRISHNAN FOR R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).27753/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF THE AWARD PASSED BY THE 2ND RESPONDENT.

EXT.P2- TRUE COPY OF THE ORDER DATED 30.12.2004

(TRUE COPY)

P.A TO JUDGE

J.M.JAMES, J.

W.P.(C). 27753/2005

Dated this the 1st day of January, 2007

JUDGMENT

The writ petitioner approached this Court praying to quash Ext.P2 order passed by the third respondent, the Kerala Co-operative Tribunal, Thiruvananthapuram.

2. The writ petitioner is a defaulter. Therefore, an Arbitration Suit was filed as A.R.C.No.2689/2001 by the first respondent. An award was passed by the Arbitrator to realise an amount of Rs.3,75,000/-, with interest, at the rate of twenty percent per annum, on the principal amount, from 1.1.2001. The learned Tribunal allowed the revision, challenging the Arbitrator's award, in part, and directed the first respondent to realise the award amount, with future interest, on contract rate, from the date of the Suit till date of realisation of the entire amount. However, the writ petitioner was allowed to discharge the decree debt in ten equal monthly instalments. Further direction

was that on the failure to remit two consecutive instalements, the first respondent shall be at liberty to realise the entire amount in lump. The same is challenged through this writ petition.

3. As per the order dated 28.9.2005, this Court found that no amount, as ordered by the Tribunal, was remitted. However, through the order dated 28.9.2005, this Court directed the writ petitioner to deposit an amount at the rate of Rs.30,000/- each, on 25.11.2005 and 20.12.2005.

4. The writ petitioner now concede that no amount had so far been remitted by the writ petitioner. Nevertheless, the counsel submits that the writ petitioner is prepared to sell the property and pay the entire amount due to the first respondent, bank. It is also submitted that the writ petitioner may be given the benefit of One Time Settlement scheme.

5. In the above facts situation, I direct the writ petitioner to approach the first respondent with a representation, requesting for an One Time Settlement,

as per the Circular No.59/2006 dated 30.11.2006, within ten days from today.

6. The first respondent shall consider the said representation and pass order on merit, after hearing the writ petitioner. The prayer, if any, of the writ petitioner to sell the property and pay the entire amount, shall also be considered by the first respondent.

The writ petition is allowed as above.

J.M.JAMES
JUDGE

mrcs